



BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2012-0176; FRL-9343-9]

Pesticides; Final Guidance on Material Safety Data Sheets as Pesticide Labeling; Request for Comment on Paperwork Burden

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Agency is announcing the availability of a Pesticide Registration Notice (PR Notice) entitled “Pesticide Registration (PR) Notice 2012-1: Material Safety Data Sheets as Pesticide Labeling.” This PR Notice was issued by the Agency on April 9, 2012. PR Notices are issued by the Office of Pesticide Programs (OPP) to inform pesticide registrants and other interested persons about important policies, procedures, and registration related decisions, and serve to provide guidance to pesticide registrants and OPP personnel. This particular PR Notice provides guidance to the registrant concerning the relationship between EPA-approved labels for pesticides registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Material Safety Data Sheet (MSDS, also referred to as Safety Data Sheet or SDS), required by the Occupational Safety and Health Administration (OSHA). It explains how registrants can ensure their FIFRA labeling and SDS’s comply with both agencies’ requirements. In addition, EPA is hereby soliciting public comment on the information collection activities and related burden estimates associated with the guidance provided in PR Notice 2012-1.

DATES: Comments on the Agency's information collection activities and related burden estimates must be received on or before [*insert date 60 days after date of publication in the Federal Register*].

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2012-0176, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Mail:* OPP Regulatory Public Docket (7502P), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460–0001.

- *Hand Delivery:* OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP-2012-0176. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The [regulations.gov](http://www.regulations.gov) website is an

“anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Mary Frances Lowe, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460-0001;

telephone number: (703) 305-5689; fax number: (703) 308-2962; e-mail address:
lowe.maryfrances@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me

This action is directed to the public in general. Although this action may be of particular interest to those persons who manufacture pesticides, State pesticide enforcement personnel and other people may also be interested. The Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this document, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a website for Pesticide PR Notices issued by the Office of Pesticide Programs to inform pesticide registrants and other interested persons about important policies, procedures and regulatory decisions. Go to:

http://www.epa.gov/PR_Notices/index.htm.

II. What Guidance Does this PR Notice Provide?

This final PR Notice provides guidance to the registrant concerning the Agency's previous determination in PR Notice 92-4 that a Material Safety Data Sheet (MSDS) (also referred to as a Safety Data Sheet (SDS)) that accompanies a pesticide product is considered part of the pesticide's labeling but may accompany a pesticide product without notification to or approval by the Agency, provided such labeling is consistent with the labeling requirements in 40 CFR part 156. The PR Notice is intended to update

and clarify PR Notice 92-4.

The Occupational Safety and Health Administration (OSHA) requires SDS's under its Hazard Communication Standard (HCS)(29 CFR 1910.1200) and is moving to align its HCS requirements with the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). OSHA published its final rule on March 26, 2012 (77 FR 17574-17896) and will begin to accept SDS's that are prepared according to the final rule's requirements on May 25, 2012. EPA has not yet moved to amend its labeling regulations to be consistent with the GHS, which leads to differences between EPA's current requirements and OSHA's new requirements related to classification criteria, hazard statements, pictograms, and signal words. Commenters on OSHA's proposed rule raised concerns about potential inconsistencies in the two agencies' requirements. EPA and OSHA worked together to develop this guidance to address these commenters' concerns. The PR Notice is intended to aid registrants in assuring that the SDS's for their products not be considered inconsistent with the EPA-approved product labeling for pesticides registered under FIFRA by providing guidance on how a registrant may reconcile an SDS with its associated FIFRA labeling, as stated below.

The Agency believes that generally explaining why the FIFRA label and the SDS contain different hazard communication will prevent users from being misled. To provide an adequate explanation so the labeling is not misleading, EPA recommends registrants include in their SDS's the hazard information required on the FIFRA label and a brief explanation for differences between that information and the SDS hazard information, as outlined in the PR Notice.

This guidance is effective immediately.

III. Do PR Notices Contain Binding Requirements?

The PR Notice discussed in this document is intended to provide guidance to EPA personnel and decision makers and to pesticide registrants. While the requirements in the statutes and Agency regulations are binding on EPA and the applicants, this PR Notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

IV. Does this PR Notice Contain an Information Collection Subject to the Paperwork Reduction Act?

This PR Notice provides guidance on what could be included in section 15 of the SDS in terms of draft explanatory text and the use of FIFRA hazard information as available on the EPA-approved label of a registered product. Although using the approach identified in the PR Notice is entirely optional, EPA recognizes that the approach involves an information collection activity covered by the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, and OMB's regulations at 5 CFR part 1320. As such, EPA and OSHA will collaborate on a subsequent revision to OSHA's ICR, identified under OMB Control No. 1218-0072, which addresses the information collection activities contained in the recent OSHA final rule revising HCS (77 FR 17574-17896). Before submitting such a revision to OMB for review and approval, EPA is hereby soliciting public comment on a supporting statement entitled "Supporting Statement for a Request to Revise a Currently Approved Information Collection Request (ICR) under the Paperwork Reduction Act; Proposed Revision to OMB Control No. 1218-0072" and available in EPA Docket ID No. EPA-HQ-OPP-2012-0176.

A. Request for Comment on PRA Activities

Pursuant to section 3506(c)(2)(A) of PRA, EPA is soliciting comments and information to enable it to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility.
- Evaluate the accuracy of the estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

B. PRA Burden Statement

Burden is defined in 5 CFR 1320.3(b). The annualized public burden for this collection of information, which involves the activities associated with the SDS preparer's inclusion in section 15 of the SDS of additional pesticide information from the EPA-approved labeling as described in EPA's PR Notice 2012-1, is estimated to average about 1.4 hours per respondent, or 0.25 hours per SDS. The ICR provides a detailed explanation of this estimate, which is only briefly summarized here:

- *Estimated total number of potential respondents:* 574.
- *Frequency of response:* Once, and optional.
- *Estimated total average number of responses for each respondent:* 5.4.
- *Estimated total annual burden hours:* 258 hours averaged over the 3-year

phase-in established by the OSHA final rule.

- *Estimated total annual burden costs:* \$ 17,028 averaged over the 3-year phase-in established by the OSHA final rule.

C. Next Step under the PRA

EPA will consider the comments received and amend the Supporting Statement as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12 as a revision to the OSHA ICR that covers the information collection activities in the OSHA HCS, identified under OMB Control No. 1218-0072. OSHA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Pesticide drift, Spray drift.

Dated: April 9, 2012.

Steven Bradbury,

Director, Office of Pesticide Programs.

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